

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER NIX,

Petitioner,

v.

JIM ROBINSON,

Respondent.

No. 2:21-CV-0659-WBS-DMC-P

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is Respondent's motion to dismiss, ECF No. 13. Petitioner has not filed an opposition.

This action proceeds on Petitioner's first amended petition raising four claims for relief. See ECF No. 7. Respondent argues that Petitioner's third and fourth claims must be dismissed because they were filed beyond the one-year statue of limitations. See ECF No. 13. Respondent also argues the fourth claim should be dismissed because it is unexhausted. See id. Pursuant to Eastern District of California Local Rule 230(c), the Court construes Petitioner's failure to file an opposition to Respondent's motion as consent to the relief requested.

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1 Based on the foregoing, the undersigned recommends that:

2 1. Respondent's unopposed motion to dismiss, ECF No. 13, be granted;

3 2. Petitioner's third and fourth claims be dismissed; and

4 3. Respondent be directed to file an answer to the first amended petition as to

5 the first and second claims.

6 These findings and recommendations are submitted to the United States District
7 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
8 after being served with these findings and recommendations, any party may file written objections
9 with the Court. Responses to objections shall be filed within 14 days after service of objections.
10 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
11 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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13 Dated: February 14, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE

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